


BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2001-244-T - ORDER NO. 2002-597 

AUGUST 23, 2002

IN RE:	Application of Brown-Thomas Corporation)	ORDER APPROVING
	d/b/a DunMar Movers Charlotte, 1301)	TRANSFER OF
	Westinghouse Blvd., Charlotte, NC 28273 for)	CERTIFICATE
	Approval of the Transfer of its Class E)	
	Certificate of Public Convenience and)	
	Necessity No. 1207-G to Wayne Moving &)	
	Storage Company of North Carolina, Inc.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Brown-Thomas Corporation d/b/a DunMar Movers Charlotte (DunMar) for transfer of its Class E Certificate of Public Convenience and Necessity to Wayne Moving & Storage Company of North Carolina, Inc. (Wayne) (DunMar and Wayne will collectively be known as the Companies.) The Certificate in question allows the transportation of household goods as defined in R. 103-210(1) between points and places in South Carolina.

Pursuant to the instructions of the Commission's Executive Director, the Companies published a Notice of Filing in newspapers of general circulation. The Notice of Filing instructed the public as to how to file pleadings to participate in the proceedings on the Application. No Protests or Petitions to Intervene were filed.

A hearing on the proposed transfer was held on August 15, 2002 at 11:30 AM in the offices of the Commission. The Honorable Randy Mitchell, Vice-Chairman, presided.

The Companies were represented by John J. Pringle, Esquire. The Commission Staff was represented by F. David Butler, General Counsel.

Barbara Cline, Sales Manager for Wayne testified. Ms. Cline stated that she had authority to testify on behalf of the Companies. Ms. Cline testified that she had been involved with the moving business for some 26 years. Wayne Moving & Storage is headquartered in Westchester, Pennsylvania and employs 300 people. The Charlotte, North Carolina branch employs some 40 people, according to Ms. Cline. Wayne holds intrastate licenses in North Carolina, Pennsylvania, Maryland, New Jersey, and the District of Columbia. Wayne also has interstate authority to perform the movement of household goods. Ms. Cline indicated a desire for South Carolina intrastate authority as well, and asks that we approve the transfer of the DunMar certificate to Wayne.

Ms. Cline notes that there are 5 people that work at Wayne with a total of 100 years of experience in the moving business, and that the Company also has drivers with a goodly amount of experience. The Company has 25 to 30 trucks in various sizes. Ms. Cline notes that the trucks are in good condition, and that the Company employs a regular maintenance program. She further notes that Wayne offers its customers storage facilities. Wayne will operate under a tariff from the South Carolina Tariff Bureau.

Ms. Cline testified that the transfer of the Certificate from DunMar to Wayne would not adversely affect the public interest. Ms. Cline was not able to provide evidence of twelve continuous months of service by DunMar prior to the filing of the Application.

Commission Regulation 103-135(4) states that this Commission shall approve an application for lease, sale, or other transfer of a Certificate of Public Convenience and

Necessity upon finding (1) that the sale or transfer of control will not adversely affect the service to the public under the certificate; (2) that the person acquiring said certificate or control thereof is fit, willing, and able to perform such service to the public under said certificate, and (3) that all services under said certificate have been continuously offered and reasonably provided to the public for a period of time not less than twelve months prior to the date of the filing of the application for approval of the sale, or transfer of said certificate, or, in lieu thereof, that any suspension of service exceeding thirty (30) days shall have been approved by the Commission, seasonal suspensions excepted. The Regulation further states that no sale or transfer of a certificate shall be approved where such action would be destructive of competition or create an unlawful monopoly. We would also note that the Regulations state that if the application does not contain evidence that the authorized services have been continuously offered and reasonably provided to the public for a period of time not less than twelve (12) months prior to the date of the filing of the application, then the application may be denied.

In examining the evidence of this case, we have no trouble in determining that the first two criteria of the regulation are met. After hearing from Ms. Cline, we do hold that the transfer will not adversely affect the service to the public under said certificate. Further, we hold that the transferee in this matter is fit, willing, and able to perform the services under the certificate. Wayne has appropriate equipment and personnel to provide the services under the certificate. We do find, however, that the Companies have failed to meet the third criterion, i.e. that the services have been offered for a period of time not less than twelve months prior to the date of filing of the application. Although we could

deny our approval of the transfer on that basis alone, we decline to do so, and, in fact, waive application of that criterion in this instance. We find that there are particular difficulties with the Companies' ability to comply with this portion of the regulation. There have been changes in management in the various companies, and a lack of communication over what was to be provided to this Commission in terms of the twelve-month requirement. The result was the submission of documents that did not show the required twelve months of continuous service pre-application.

Because we find that the transfer will not adversely affect the service to the public under the certificate, and that Wayne is fit, willing and able to provide service under the certificate, we believe that the transfer and waiver of the third criterion of the Regulation is in the public interest. Wayne and its personnel have many years of experience in providing the relevant services under the certificate. Further we do not find any destruction of competition, nor do we find that an unlawful monopoly would be created by the transfer.

Accordingly, the application for transfer of the Certificate in question is approved as requested in the amended application.

IT IS THEREFORE ORDERED THAT:

1. The Application of Brown-Thomas Corporation d/b/a DunMar Movers Charlotte for transfer of its Class E Certificate of Public Convenience and Necessity to Wayne Moving & Storage Company of North Carolina, Inc. be, and hereby is, approved.
2. Wayne Moving & Storage Company of North Carolina, Inc. shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et

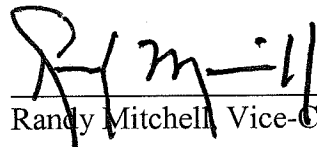
seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976), as amended, and R.38-400 through 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann., Vol. 26 (1976), as amended, a Certificate shall be issued to Wayne Moving & Storage Company of North Carolina, Inc. authorizing the motor carrier services granted herein.

4. Prior to compliance with the above referenced requirements and receipt of a Certificate, the motor carrier services authorized herein may not be provided.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Randy Mitchell Vice-Chairman

ATTEST:


Gary E. Walsh Executive Director

(SEAL)